REMARKS

The claims have been amended to more clearly describe the invention and to place the claims in US format.

Support for the amendment to claim 1 can be found in the Specification on page 1, lines 1-3, page 4, lines 9-10 and elsewhere throughout the Specification.

The support for new claim 22 can be found in original claim 3. Support for new claims 23-32 can be found in original claims 1-21.

No new matter has been added.

Claim Objections

The Examiner has objected to claims 8 and 11 as being in improper form as multiple multiple dependent claims.

Applicants have amended claims 8 and 11 removing the multiple dependencies, thus overcoming the objections.

Restriction Requirement

Claims 1-21 are pending in the present application.

The Examiner has issued a Restriction Requirement contending that more than one invention is present in the application and that these inventions or groups of inventions are not linked to form a single general inventive concept under PCT Rule 13.1. The Examiner has indicated that the five different inventions contained within this application are as follows:

Group I - claims 1-10, 15-18 and 20-21 drawn to a recombinant DNA molecule, vector, host cell, transgenic plant and kit comprising a nucleic acid molecule encoding a subtilisin-like serine protease and a method for producing transgenic plants with decreased water consumption.

Group II - claims 1-10, 15-18 and 20-21 drawn to a recombinant DNA molecule, vector, host cell, transgenic plant and kit comprising a nucleic acid molecule encoding a hyperactive mutant subtilisin-like serine protease and a method for the production of transgenic plants having decrease water consumption.

Group III - claim 1-7, 11-14 and 19 drawn to a recombinant DNA molecule, vector, host cell and transgenic plant comprising a nucleic acid molecule encoding a non-active mutant subtilisin-like serine protease and a method for the production of transgenic plants with increased yield and/or or increased stomatal density.

Group IV - claim 1-7, 11-14 and 19 drawn to recombinant DNA molecule, vector, host cell, transgenic plant and kit comprising a nucleic acid molecule encoding an antibody against the subtilisin-like serine protease and a method for the production of transgenic plants with increased yields and/or stomatal density.

Group V - claim 21 drawn to the use of a nucleic acid molecule that encodes or regulates that expression of a subtilisin-like serine protease.

The Examiner contends that the claims do not meet the PCT requirement of being linked by a single special technical feature because the invention of Group I does not constitute an advance over the prior art. The Examiner contends that Group I is taught by Jarai et al. who teach a DNA sequence encoding a subtilisin-like protease from *Aspergillus*. The Examiner then goes on to contend that no special technical feature links the wild-type DNA sequence of Group I to the hyper-active mutant subtilisin-like serine protease of Group II or to the non-active mutant subtilisin-like serine protease of Group III or to the antibody against the subtilisin-like serine protease of Group IV or the nucleic acid molecule of Group V. Applicants respectfully traverse.

Applicants first point out that the International Preliminary Examination Authority did not find unity of invention lacking. According to 35 U.S.C. § 371 PCT rules 13.1 and 13.2 will be followed when considering unity of invention claims without regard to the practice and national applications (MPEP 1850). Applicants therefore request reconsideration and removal of the Restriction Requirement.

Applicants next respectfully point out that the Examiner is applying the wrong standard to determine unity of invention. The Examiner contends that Group I is taught by Jarai et al.,

who teach a DNA sequence encoding a subtilisin-like protease from *Aspergillus*, and that there is no special technical feature that links the wild-type DNA sequence of Group I to the hyper-active mutant subtilisin-like serine protease of Group II or to the non-active mutant subtilisin-like serine protease of Group III or to the antibody against the subtilisin-like serine protease of Group IV or to the use of nucleic acid molecule that encodes or regulates the expression of subtilisin-like serine protease of Group V.

Applicants urge the Examiner to look at the amendment made to claim 1, that requires the element that the recombinant molecule must modify stomata density when transgenically expressed. This is the unifying technical feature of all of the claims in these groups and is not taught in the Jarai et al. publication. As a consequence, Applicants respectfully request reconsideration and removal of the restriction.

In order to be fully compliant with 37 C.F.R. 1.143, however, Applicants elect Group I.

The Examiner also requires election of a single nucleic acid sequence and its corresponding amino acid sequence. Again, to comply with 37 C.F.R. 1.143, Applicants elect SEQ ID NO. 1 (nucleotide sequence) and SEQ ID NO. 2 (the corresponding amino acid sequence).

Accordingly, Applicants respectfully request early allowance of the claims.

Pursuant to 37 C.F.R. §§ 1.17 and 1.136(a), the Applicant respectfully petitions for a two (2) month extension of time for filing a response in connection with the present application and the required fee of $420.00 is attached hereto.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Leonard R. Svensson (Reg. No. 30,330) at the telephone number of the undersigned below, to conduct an interview in an effort to expedite prosecution in connection with the present application.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17; particularly, extension of time fees.

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail, postage prepaid, in an envelope to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on: January 6, 2004
(Date of Deposit)

BIRCH, STEWART, KOLASCH & BIRCH, LLP

(Signature)

January 6, 2004
(Date of Signature)

LRS/SWG/sbp
0147-0223P

Respectfully submitted,

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